The Mises Review

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The Bomber Caucus

While America Sleeps: Self-Delusion, Military Weakness, and the Threat to Peace Today

Donald Kagan and Frederick W. Kagan
St. Martin's Press, 2000
ix + 483 pgs.

While America Sleeps might better have been called *While the Kagans Sleep*. The book is divided into two parts: one on British foreign policy in the 1920s and 1930s and another on American foreign policy in the 1990s. The initial part, marginally better than the dreary laundry lists of military procurement policy that clog its successor, aims to inculcate a lesson. Britain, after the First World War, stood in position to dominate the planet. Foolishly, she threw away her chance at world hegemony by rapid demobilization and disarmament.

Lacking the tools to police the world, disaster followed. Britain failed to crush Germany as a potential

A Totalism of His Own
John Gray
Two Faces of Liberalism.....6

Beyond Guilt and Innocence?
Paul Craig Roberts and Lawrence M. Stratton
The Tyranny of Good Intentions: How Prosecutors and Bureaucrats are Trampling the Constitution in the Name of Justice.....10

Welfare State: Pro and Con
David Schmidtz and Robert E. Goodin
Social Welfare and Individual Responsibility...15

Discovery in the Balance
Israel M. Kirzner
The Driving Force of the Market: Essays in Austrian Economics.....19

Overvaluing Uncertainty
Peter Lewin
Capital in Disequilibrium: The Role of Capital in a Changing World.....23

A Quarterly Review of Books, by David Gordon

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antagonist. Further, with craven weakness the British Foreign Office refused to support collective security through the League of Nations. How could the British have failed to see the imperative need to punish Italy for Mussolini's occupation of Corfu in 1923? Without overwhelming military might, Britain felt herself constrained in her options.

The result, you will not be surprised to learn, was Hitler. The new German Führer posed a threat of unparalleled magnitude; but Neville Chamberlain and Lord Halifax, at the helm of British foreign policy, persisted in appeasement. Only America's intervention saved Britain from disaster, and she became a power of the second rank after the war ended. The Kagans' sad tale, they make evident, has more than antiquarian interest.

The United States occupies a similar position to that of Britain in the 1920s. After the collapse of Soviet Russia, the United States stood poised for world mastery. But overly cautious defense budgets have blocked us from imposing our will on other nations. The Kagans find especially disturbing our failure to dispatch Saddam Hussein and to destroy the North Korean nuclear program. Has the lesson of Hitler been forgotten so quickly? Only a massive arms buildup can save us. Whether or not you speak softly, at least carry a big stick.

The Kagans leave no doubt as to the moral of their prolix story: "A situation very like ours faced another great democracy this century. Warnings that England was sleeping came too late to do any good. We hope that this one comes in time. America . . . must make the necessary commitments and be ready materially and morally to meet them" (p. 435).

This latest entry into Aesop's fables proceeds in utter disregard of logic and morality. Our authors' initial premise on the surface seems plausible. If a nation has sufficient arms to cope with any conceivable threat, and the will to use them, then is it not obviously the case that her power can be indefinitely maintained? No doubt; but this is merely the tautology that a nation that can meet any threat can, not surprisingly, meet any threat.

It does not at all follow that, in the concrete circumstances of the 1920s and 1930s, Britain could have achieved enough of an arms dominance to attain this ambitious goal. No doubt, Britain after the First World War was in a position to crush resistance to the Versailles treaty by Germany. No doubt, further, that Britain could defeat either the Turks or Iraqi insurgents should the occasion demand this. But how is it supposed to follow that Britain could maintain a force sufficient to meet all of these threats, along with many others?

The MISES REVIEW

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Lemuel Gulliver could easily turn aside any of the Lilliputians, but he could not prevail against a number of them acting in concert.

Nor is the problem simply that many threats might come at once. Suppose that Britain could easily meet the first of a series of threats. To do so would inevitably cost men and material, and the next threat might well prove more difficult to handle. Again, the fallacy is manifest: a nation that can meet one threat need not be in a position to handle an entire series of them. The Kagans have too quickly jumped from a tautology—a nation strong enough always to maintain hegemony can always maintain hegemony—to the far less evident claim that a particular nation, Britain, was in the 1920s capable of making itself master of the world.

Lemuel Gulliver could easily turn aside any of the Lilliputians, but he could not prevail against a number of them acting in concert.

To this objection our authors will likely deploy two responses. First, I have wrongly supposed a static military machine. True enough, if the Royal Air Force terror bombed Arab tribesmen, as it in fact did, its resources would be depleted; but could these not be readily replenished? Then—happy thought—the RAF would have undiminished capacity to bomb some other alleged threat to smithereens.

Further, it will be said, my argument rests on another false assumption. Once a hegemonic power showed herself ready to confront the slightest resistance to her will with condign force, would not defiance lessen, if not disappear altogether? One threat would *not*, as I have imagined, be followed by another.

The first counter merely serves to expose an unsupported premise of the Kagans' argument. What exactly would Britain have required in the 1920s to meet any new threat with undiminished force? The Kagans never tell us, but surely the cost would have been enormous. Even so notorious a war hawk as Winston Churchill favored cuts in military spending during the 1920s. Where was Britain to obtain the money required to meet the Kagans' gargantuan requirements? If, by some miracle, the necessary funds could be secured, would not a large part of civilian spending and investment be crowded out?

You might think that Churchill's espousal of cuts would induce our authors to reconsider; but this is to underestimate the Kagans. Although they praise Churchill for sparking resistance to the Turks in the Chanak crisis, they incredibly view him as someone unduly averse to war. He foolishly preferred economy to more

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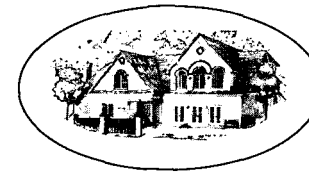
bullets. "Churchill's cost limitation proposal . . . was not only unwise but impracticable" (p. 53). What do such pacifists as Churchill and the General Staff know about military preparation? The Kagans have spoken!

In like fashion, the second counter also rests on a false assumption. Nations do not always react to a dominant power by cringing away in fear. If Britain had attempted to pursue the path of dominance our authors urge, would this not have induced other nations to challenge her? Would France always remain the compliant ally, as the book assumes without evidence? And what of the United States? Would we have consented forever to remain appendages of the British Empire? During the early 1920s, influential British experts feared impending conflict with America. Our authors dismiss these fears as nonsense, with no grounds but their complacent assumption of a permanent identity of interests between the two countries.

Even if the Kagans' policy were feasible, it would fly in the face of morality. Why is Britain, or any other country, justified in suppressing any regime that dares flout its dictates? The authors denounce with great ferocity Mussolini's invasion of Ethiopia in 1935; how could Britain idly stand by the blood of her neighbor? But if Italian aggression is wrong, what sanctifies British aggression? I suspect that the Kagans would dismiss my inquiry as misconceived.

What concerns them is not morality, but its appearance: in order to pursue world hegemony, a nation's policies must be couched in the proper ideological terms. Wary readers will suspect that I have caricatured the



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authors' views—as if I could do such a thing. But they set forward their standpoint in terms that leave no room for doubt: "It is, in fact, a requirement of true realism in the modern world to recognize the inescapable role of what has come to be called ideology but is not very different from what once was called honor. By 1935 the British public would not ignore the commitment to resist aggression, especially on the part of a dictator against a weak country" (p. 207).

Suppose one puts aside all the objections thus far raised against the Kagans' argument. Even judged strictly on its own terms, their main thesis collapses. They contend that British failure to maintain armed superiority during the 1920s made Britain unable to meet the threat posed by Hitler in the 1930s. Yet they themselves acknowledge that Hitler could easily have been expelled from the Rhineland in 1936. Why, then, all the fuss and fury over the lack of a military force adequate for hegemony? Is the argument supposed to be that with sufficient arms, the British would have found appeasement less tempting? But why believe this? The Kagans' argument rests on an unverifiable counterfactual: given larger armed forces, British generals would have supported a more aggressive policy.

I should myself prefer to press a different supposition: had Britain been *less* aggressive, war might have been avoided in 1939; but to pursue this would veer too far from our authors' argument. Rather, let us turn to the book's lessons for America in the 1990s.

As earlier explained, the Kagans fear that the United States will succumb to the British disease. They show, at wearying length, that America cannot respond adequately to several large threats at once. Like Britain in the 1920s, American policy makers pay attention to the costs of military might. For such foolish economy, Les Aspin, secretary of defense under Clinton, bears much of the blame. But though his predecessor in office, Richard Cheney, earns from our authors higher marks, he too failed to grasp that a hegemonic nation must turn a blind eye to the budget.

The Kagans fear that the United States will succumb to the British disease.

Suppose that our authors, in spite of everything here brought against them, have correctly dissected British policy in the 1920s and 1930s. Britain ought to have striven for hegemony, just as they allege. It does not follow that the United States should do so in the 1990s. It is hardly entailed by their

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analysis that a Hitler always waits in the wings to pounce on a nation that neglects its arms budget. One historical instance hardly suffices to establish a law of action; and, absent that, the "lessons" derived from their case study must be set against the risks and costs of the bellicose policy they favor. Their efforts to conjure Iraq and North Korea into major threats to the United States I shall leave to readers to evaluate; I found myself nodding off more than once. The first part of the book contains useful information, although the Kagans oddly think that Harold Nicolson was a Conservative member of Parliament (p. 212). Nicolson was a member of National Labour. ✦

A Totalism of His Own

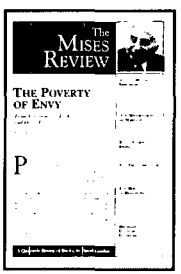
Two Faces of Liberalism

John Gray
The New Press, 2000
vii + 161 pgs.

Sometimes a single sentence in a book tells you that something is radically wrong. In the present work we find the damning statement early: "Aeschylus, Shakespeare and Samuel Beckett are supremely great dramatists; but we cannot rank their work in value" (p. 37). Mr. Gray uses this example to illustrate his hobbyhorse, value pluralism; but it reveals an astonishing failure of aesthetic judgment. How can he rank Beckett, a minor playwright inferior to Shaw, among the "supremely great"?

What I suspect has happened is this: our author is in the grip of a theoretical obsession. He quite properly sees that there are many valuable types of life and deplores efforts to press people into a common pattern. Have we not learned in the twentieth century the dangers of totalizing ideologies? But a menace threatens that, unless Mr. Gray can block it, will render us vulnerable to the fanatic drive toward unity at the root of communism and fascism. If all values could be ranked in order, would not advocates of the best life be justified in imposing their conception of the good on those of us less enlightened than they? It is this dire prospect that Mr. Gray most fears, and he believes that he has the answer to it.

Suppose that important values cannot be ranked in an order of merit; instead, they are "incommensurable," to use our author's favorite term. Then all is well; the specter of totalitarian universalism dissipates. No advocate of



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a way of life can say that his values outrank all others, however good they seem to him. If so, will we not all agree on a politics of toleration? How can we demand that others fall in with our pet universal scheme, if they hold incommensurable goods of their own? Will not a policy of *modus vivendi* recommend itself instead?

No advocate of a way of life can say that his values outrank all others, however good they seem to him.

Mr. Gray fails to see that his avid pursuit of pluralism conceals a totalistic impulse of his own. So anxious is he to find plural values that whenever any difference appears, he yells "incommensurability" with all the monomania of Mr. Dick about King Charles's head. Here we find the explanation of his appalling lapse of taste. Since Beckett's plays differ in style and substance from those of Aeschylus and Shakespeare, must they not be incommensurable—blessed word—with them?

Our author has of course reasoned too quickly, but I do not propose to discuss his views on the beautiful any further. Gray on the true and the good is quite enough, and we turn at once to his ethics and politics. The source of our author's confusion lies in pushing too far a perfectly sound observation.

He rightly sees that we often cannot say that one value outranks another. Is the active life of a businessman better than that of a quiet scholar engaged in research? Should we seek constant change, as Mrs. Virginia Postrel thinks, or adhere to customary ways, with M.E. Bradford and the Southern Agrarians? These questions admit of no ready answer; if so, is not Mr. Gray right in invoking the incommensurable?

Not at all. Our cases show at most that some values cannot be rated better or worse than various others. But why not say, then, that the values concerned rank as roughly equal? This leaves entirely open whether there is a highest good. Two values may count as equal, but something else may have more value than either. Even if two values count as about equal, values may be measured on a common scale, for all Mr. Gray has shown otherwise. His favorite term does not apply, as he wrongly thinks, whenever we find puzzling the relative rank of two values.

Quite the contrary, incommensurability exists only under highly specific circumstances, a matter Mr. Gray altogether neglects. Suppose that I cannot say whether Shakespeare is a better poet than Milton and cannot rank in order Shakespeare and Dante, but that I *can* place Dante above Milton. Then, Shakespeare and Milton count as

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In brief, Mr. Gray does not know what he is talking about.

incommensurable. Crucial here is the apparent anomaly: though I do not place Dante above Shakespeare, I place Dante and not Shakespeare above Milton. Absent this, I could *not* take Shakespeare and Milton as incommensurable. Instead, I would say merely that they rank about the same.

I have harped on what seems a technical point; but there is, I hope, method in my madness. Our author does not grasp how difficult it is to show that values are incommensurable; but unless he can show clear and important instances of this phenomenon, his argument for value pluralism collapses. To reiterate, all he has shown is that rough equivalents in value exist. But what if something outranks both?

We may go further. Gray's failure stems from his loose grip on what is at stake, although this book is his second that adopts the incommensurable as its theme. He states: "Two goods that are incommensurable as a pair may be commensurate when either or both are compared with other goods" (p. 41). He here falls into gross fallacy. He does not see that one of the two incommensurable values *must* be commensurable with a third, and that the other member of the pair *cannot* be. In brief, Mr. Gray does not know what he is talking about.

But I am a generous soul. Let us grant our author his key premise: important values are incommensurable. As Mr. Gray says, "to claim that goods are incommensurable is *not* to rank them. It is to say that they cannot be ranked" (p. 41). Has he then, as he imagines, pierced fatally the view that there is a single best form of life for man?

You will not be surprised to learn that he has not. Even if some forms of life are incommensurable, in the strict sense of which Mr. Gray knows nothing, there may be a best form of life. The highest value may outrank each incommensurable value. Suppose, e.g., with a silliness that exceeds Mr. Gray's, that I took Shakespeare and Milton to be incommensurable as writers, but ranked Beckett above either. Our author's fuss and feathers about a concept best left to the philosophy journals does not suffice to eliminate the objective hierarchy of values that he dreads.

Our author is here not without resources: he has another fallacious argument to throw at us. How can one speak of a best form of life? Surely no way of life can incorporate all the virtues, since some cannot be realized consistently with others. "Think of the virtues that animate the *Iliad* and those that inform the Sermon

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on the Mount. . . . The lives of people exhibiting these virtues are mutually exclusive, since each requires what the other condemns" (p. 38).

This observation, even if right, misses the point. Why must the best form of life incorporate all possible good things? What if, say, the life of St. Paul is better than that of Achilles, even though the latter had virtues that the former lacked?

But even if Mr. Gray's arguments for incommensurable values fail, must one not admire the spirit behind them? Should we not fear, as he thinks, those who seek to impose their vision of what is best? Once more our author relies on a false assumption. Why must a moral view that rejects pluralism welcome coercion? I should have thought that classical liberalism illustrates the precise contrary. In Murray Rothbard's version of that doctrine, e.g., it is objectively true that people ought to have a sphere of personal freedom. Why is this position "totalistic" in a way open to objection?

I have been so absorbed in my assault on Mr. Gray that I have left myself open to counterattack. The arguments Gray here advances in favor of incommensurable values do not succeed; but this hardly shows that the position is false. Many people, Isaiah Berlin not least among them, find value pluralism appealing and right. If you accept pluralism, must you renounce classical liberalism as universally true?

Robert Nozick argues that you need not do so. Rights, he famously argues, constrain us in pursuit of our goals; they are not designed to maximize value. Thus, incommensurability of values leaves rights unscathed. Even if some values cannot be compared, rights always govern our conduct. Mr. Gray dissents. Appeals to rights, he argues, do not escape the dissolving acids of incommensurability.

True enough, he says, a right does not directly aim to maximize a value. But rights conflict with one another, and these clashes admit of settlement only through recourse to values. And values, as Mr. Gray has told us *ad nauseam*, are incommensurable. Our original problem returns. No universally binding theory of rights can be shown true.

As usual, Gray moves too quickly. Suppose, like Rothbard, one contends that natural law establishes that everyone has certain rights. How are such views overthrown by invoking incommensurable values? Of course, many will dissent from Rothbard's theory, but these disagreements do not

Why must the best form of life incorporate all possible good things?

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demonstrate that a dispute over values has occurred. Mr. Gray confuses disagreement, an everyday matter of fact, with incommensurability, a highly disputable concept.

Given Mr. Gray's alarm over totalizing ideologies, it is surprising to see how little he cares for personal freedom. People who dare to utter the politically incorrect might not fare well in a Gray world. "European (and American) history suggests that a society in which racist speech is free easily becomes one in which the speech of racial minorities is unfree. . . . These considerations tell heavily in favour of curbs on racist speech" (p. 79). In other situations, such muzzling may not be mandated, but "I am not convinced that these possibilities are realistic" (p. 80).

People who dare to utter the politically incorrect might not fare well in a Gray world.

As John Gray's readers have come to expect, the latest book contains more than its share of mistakes. Mr. Gray says that in Nozick's theory, side constraints "have an infinite weight when they conflict with other values" (p. 83), despite Nozick's explicit denial that side constraints can be thus explained. Nozick notes the suggestion that to be bound by a side constraint is to assign violating that constraint an infinite negative weight and says of it: "A careful statement delimiting 'constraint views' would exclude these gimmicky" suggestions (Robert Nozick, *Anarchy, State, and Utopia* [New York: Basic Books, 1974], p. 29). Clausewitz's first name is misspelled (p. 125). ✦

Beyond Guilt and Innocence?

The Tyranny of Good Intentions: How Prosecutors and Bureaucrats Are Trampling the Constitution in the Name of Justice

Paul Craig Roberts and Lawrence M. Stratton
Prima Publishing, 2000
xiii + 242 pgs.

Years ago, Paul Samuelson raised an influential objection to Friedrich Hayek's *The Road to Serfdom*. Hayek argued that collectivist movements displayed a disturbing feature. Progressives and "advanced

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thinkers" of all stripes, in their zeal to remold society, found the fact that people were unwilling to conform to their schemes of no importance. Leftists took themselves to be an elite class who would guide the rest of us to what we "really" wanted. Civil liberties mattered little. Hayek quoted with misgiving the title of a book by the historian Carl Becker that celebrated the new trend: *New Liberties for Old*. But according to Samuelson, Hayek had raised a false alarm.

Is it not the case, Samuelson asked, that in the United States we have both a free society and a welfare state of just the sort that worried Hayek? Whether civil liberties and the market can coexist peacefully is an empirical matter; our own society gives Hayek's argument the lie. Messrs. Roberts and Stratton show convincingly that Samuelson spoke too soon. For people whom the government has in its sights, the United States has ceased to be a free society.

One might at first be inclined to dismiss this charge as exaggerated, but our authors devise a thought experiment that quickly induces a second look at their startling thesis. They describe in some detail the trial and subsequent execution of Nikolai Bukharin in 1938. Bukharin, once the "golden boy" of the Soviet Communist Party, stood accused of plotting with foreign powers to destroy the Russian Revolution. Of course, the charges were mere figments of Stalin's frenetic imagination, but this did not save the hapless Bukharin.

Quite the contrary, the trial proceeded to its foreordained conclusion. If evidence against Bukharin did not exist, no matter; "torture and [the threat of] family annihilation" (p. 27) hung over each prisoner and would secure the desired end. A sad tale, no doubt; but what has it got to do with us? Surely American prosecutors do not regularly employ torture to obtain their convictions. Not for them the three rules for securing a confession often attributed to Stalin: "beat, beat, and beat again!"

For people whom the government has in its sights, the United States has ceased to be a free society.

Roberts and Stratton dissent. Their point in describing the Bukharin episode is to focus an unaccustomed beam of light on American criminal justice. True, American defendants rarely suffer physical abuse, but psychological torture pervades our supposedly free system. Our authors here have in mind plea-bargaining. "In the United States today, plea bargaining has displaced trial by jury as the dominant

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method of criminal dispute resolution . . . 90 to 95 percent of all federal, state, and local criminal cases are settled by plea bargains" (p. 85).

But what has this to do with torture? "Defendants who insist on exercising their constitutional right to a jury trial risk a substantially increased sentence if they are convicted, and this sentencing differential alone is enough to make plea bargaining coercive" (pp. 85–86). According to common law, a defendant must be proved guilty; but plea-bargaining enables the State to avoid its burden. Have we not come very close to the forced confessions that shock us in the Russian case?

According to common law, a defendant must be proved guilty; but plea-bargaining enables the State to avoid its burden.

Our authors denounce on similar grounds inducing one defendant to testify against others in return for lenient treatment. Blackstone condemned this practice in the eighteenth century, noting that such induced confessions cannot be trusted; but prosecutors, anxious at all costs for a high conviction rate, have no use for long-established historical rights.

But have we a choice? Supporters of the current system will claim that full trials for everyone accused cost too much. Would not the vast increase in costs were plea-bargaining abolished impose a draconian tax burden? Here I think our authors' case needs expansion. Their distaste for confessions should be linked to a rigorous pruning of the legal system. If, for example, drug offenses were purged from the criminal roster, would not the number of required trials drastically lessen?

You may now deploy another objection. Will an innocent defendant so readily plead guilty? Will he not trust that the safeguards against false convictions will insure for him an acquittal? Unfortunately, these safeguards have to a large extent gone by the board. People may be tried for hitherto unheard of "crimes"; and in their efforts to defend themselves, they face unprecedented obstacles.

A prime requirement for conviction under common law is *mens rea*: you must intend to commit a criminal act in order to be found guilty. No longer does this restriction apply, as the Exxon Corporation discovered to its cost after the Exxon *Valdez* oil spill. "The government's 'innovative legal approach' was to criminalize the accident. It is absolutely certain that America's largest oil company did not run the *Valdez* aground with the criminal intention of polluting the water and killing migratory birds. Yet, the Justice Department's criminal indictment assumed that Exxon did" (p. 48).

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The assault on *mens rea* forms but one salient in the full-scale invasion of legal liberties. Not only may you be found guilty without showing criminal intent: you may also be convicted for activity that was not criminal when you did it. Once more, violations of a fundamental legal principle often proceed under cover of protecting the environment. The notorious Superfund Act "meant total, rather than proportionate, retroactive liability for parties who were in any way connected with the waste dumps prior to the passage of Superfund, regardless of the legality of their actions at the time they occurred" (p. 74).

As if this were not enough, the modern prosecutor has means to disrupt the trial as well. Attorneys who defend too vigorously the "wrong" clients may find themselves charged with criminal conspiracy. Both attorney and client face asset forfeiture before trial, making resistance to prosecution next to impossible. Small wonder that many succumb to the offer of a plea bargain that obviates any need for the prosecutor to prove charges. Should any defendant be brave enough to resist, prosecutors may subject him to a barrage of unfavorable publicity. Such a trial by the press helped bring down Clark Clifford, one of the highest and mightiest of the elite. Just as members of the Politburo often found themselves victims of the Red Terror, so no one in America is safe.

I have so far barely mentioned the most dangerous threat to our liberties. Let us suppose that, through skill or luck, a defendant is found not guilty. The government can still confiscate his assets. Even "those who are acquitted cannot recover their property without proving that there was no 'probable cause' for the seizure of their property" (p. 128). And what if you have never been charged with a crime at all? You are by no means safe. If government agents suspect a crime has taken place on your property, it is forfeit, even though you knew nothing at all about the alleged crime.

How has the virtual destruction of our legal system come about? Our authors place much of the blame on a surprising source: the utilitarian philosophy of Jeremy Bentham. A precocious student, Bentham attended at a young age the lectures of Sir William Blackstone and found them not at all to his liking.

The great English jurist stressed fixed rules of procedure that had been developed over the course of centuries of British law. Fundamental to Blackstone's analysis lay a basic premise: people need protection from the government. Rights draw a privileged sanctuary around the individual, guaranteeing him against arbitrary power.

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As Blackstone saw matters, the law reflected no comprehensive scheme that a single mind had devised. Rather, "freedom slowly broadened down, from precedent to precedent," as Tennyson later put it.

Our authors not only accept Blackstone's account but also look with sympathy on a view of legal history brought to perfection in the nineteenth century by William Stubbs and Edward Augustus Freeman. According to them, British liberty was a Saxon inheritance that could be traced ultimately to German tribesmen. Saxon restrictions on royal power suffered a near fatal blow from the Norman invasion in 1066, and the precedents cited by Blackstone resulted from a long struggle to regain that inheritance.

The view of legal evolution sketched here is much more controversial than our authors allow; but fortunately their account of British legal liberty does not depend on its truth. Suffice it to say that the notion of a lost Saxon tradition of freedom exerted a decisive effect on resistance to arbitrary power in the seventeenth century, as J.G.A. Pocock has shown in his classic work, *The Ancient Constitution and the Feudal Law*.

To Blackstone's entire conception, Bentham interposed an objection. Does not the entire view exemplify blind rule-worship? The purpose of law, after all, is to ferret out lawbreakers and, by punishing them, to deter others from following their path. If so, legal rules must be judged by their efficiency in securing that end. If torture, when carefully applied, enables the magistrate to secure information at less cost than alternatives, why forbid it? Again, why limit imprisonment to those who have already committed crimes? Should not those likely to offend be subject to sanction? The mere fact that they have so far done nothing wrong imposes no insuperable bar to action.

Why limit imprisonment to those who have already committed crimes? Should not those likely to offend be subject to sanction?

Roberts and Stratton rightly see in Bentham a malign influence on criminal law, but I regret that they do not consider a vital point. Is Bentham's low regard for civil liberties an implication of utilitarian ethics? That is to say, if one has the aim of maximizing the general happiness, will one of necessity throw out Blackstone and put in Bentham? Some utilitarians argue that civil liberties are mandated by their ethical system: Bentham mistook the implications of his own doctrine.

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I would have welcomed an evaluation of this contention by our acute authors, as well as their opinions on a few other topics. How would they respond, e.g., to Richard Epstein's contention that in some instances strict liability should replace *mens rea*? But I must not cavil; Roberts and Stratton have given us a work of vital importance. ✦

WELFARE STATE: PRO AND CON

Social Welfare and Individual Responsibility

DAVID SCHMIDTZ AND
ROBERT E. GOODIN
CAMBRIDGE UNIVERSITY PRESS, 1998
XVIII + 222 PGS.

Most readers of this journal will, I suspect, find the arguments of David Schmidtz much more congenial than those of his coauthor in this discussion of welfare. (The book contains two separate essays. Each author has seen the other's contribution, but there is no series of replies, as in a debate.) With Robert Goodin as our guide, we enter a bizarre world. In his view, welfare recipients have a right to receive subventions from the state. We may hope that they will look for work, but we cannot require this. To do so threatens what is rightfully theirs. To cut someone off from aid entirely is to be guilty of mortal sin.

As Mr. Goodin puts it: "Is there *nothing* we can expect of welfare mothers, in return for the public assistance they receive? Not sexual abstinence? Not a sincere effort to find a job? Not even a word of thanks? . . . do we really think we should make our assistance *conditional* on any such performances? . . . most surely recognize that it is the nature of safety nets and last resorts that, in order to perform their residual safety net function at all, they simply must be unconditional in form" (pp. 113–14).

In Mr. Goodin's view, welfare recipients have a right to receive subventions from the state.

Of course, this argument as it stands is worthless. Mr. Goodin has simply defined a last resort grant so that it must not be given with conditions. It cannot then be a *reason* for refusing to impose conditions that the grant is one of last resort. If the mean-spirited

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welfare office were to require that the grant not be spent on narcotics, it would not be making a last resort grant, in Goodin's sense. But why is this a reason against imposing restrictions?

Oddly enough, Mr. Goodin recognizes the fallacy perfectly well when he does not choose to perpetrate it. He claims elsewhere that advocates of personal responsibility have adopted "moralized" definitions of that term. With the details of his contention, we are not here concerned. Rather, the relevant point here is that Goodin identifies a fallacy in which "[m]oralizing the definitions of these key terms prevents them from doing the work that those deploying them want them to do in their arguments. . . . Of course, there is nothing wrong in simultaneously asserting both halves of a tautology . . . [but] it does not provide any independent reason for the proposition in question. Asserting a tautology is simply to repeat oneself, to stutter" (pp. 139–40). Has not Goodin refuted Goodin?

Only the fact that the poor need money concerns him; that others have a prior claim to the money seems not to have crossed his mind.

Perhaps, though, I have interpreted our author uncharitably. He may mean that, once one thinks about it, it is obvious that people have unconditional rights of the sort he suggests. If this is his claim, I can say only that its self-evident character altogether eludes me. Let us try to put Mr. Goodin's case at its strongest.

Surely he is right that some people, through no fault of their own, cannot provide for themselves. But why does the sad condition of these people entitle the state to seize the assets of others for their benefit? If those in more fortunate circumstances have obtained their assets justly, is it not up to them how much they choose to give to charity?

Someone of Mr. Goodin's persuasion might claim that people have property rights only subject to claims by the destitute. Arguments of this sort that have come my way strike me as unpersuasive, but we need not delve into them now. Our author says nothing whatever about property rights. Only the fact that the poor need money concerns him; that others have a prior claim to the money seems not to have crossed his mind.

David Schmidtz, an excellent philosopher of libertarian bent, says much that is true and important: but he does not fully destroy his antagonist at the decisive point. He begins by adducing Garrett Hardin's famous "tragedy of the commons." Unless individuals can acquire personal property, they will have little incentive to

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use resources efficiently. Even those who do not own property benefit from the institution, since everyone suffers when the commons is wasted. "The argument is not merely that enough is produced in appropriation's aftermath to compensate latecomers who lost out in the race to appropriate. The argument is that the bare fact of being an original appropriator is not the prize. The prize is prosperity, and latecomers win big, courtesy of those who got here first" (pp. 30–31).

This is well said and convincing, but Schmidtz has left Goodin an escape. Schmidtz has argued that society should have the institution of private property, for the decisive reason that everyone gains by this. But his point, however true, does not suffice to show that individuals have a *moral right* to the property they have appropriated. To claim, as Schmidtz does, that it is efficient if everyone has the *legal* right to acquire property is not at all the same thing. Goodin can answer that even if Schmidtz is right, legal rights to property should be limited by the needs of the unfortunate. Under a welfare state of the proper sort, we can obtain the efficiency advantages of private ownership without sacrificing the interests of the poor. Had Schmidtz argued directly for moral rights, Goodin's move is blocked from the start. If you have a moral right to your property, you cannot be compelled to surrender it, even for poor relief. (We shall soon see, though, that Schmidtz has a cogent reply of his own to the argument I have imputed to Goodin.)

Before going further, I pause for a digression that allows me to make one of my much-beloved hairsplitting points. Mr. Schmidtz suggests that because common use wastes resources, "leaving resources *in the commons* does not leave enough and as good for others. The Lockean proviso, far from forbidding the appropriation of resources from the commons, actually requires appropriation under conditions of scarcity" (p. 35).

If you have a moral right to your property, you cannot be compelled to surrender it, even for poor relief.

Not so. The proviso restricts removal of resources from the commons but says nothing about use when nothing is appropriated. So long as private property does not exist, it is not individually efficient to leave as much and as good for others. Why then do people stand subject to an analogue of the proviso in the commons?

Though Goodin is left an escape by the strategy Schmidtz has adopted, the escape is in truth a narrow one.

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Goodin claims that the poor need welfare; in a system of unhampered free enterprise, what happens to those who cannot by themselves keep up? Schmidtz ably argues that this question rests upon a false assumption. At a particular time, some people will under a free market do badly. Perhaps they might obtain more from the government than from private charity. But the passage of time soon changes the situation.

A free enterprise economy will grow much more rapidly than its welfare state rival, owing to the draining effects of high taxes on incentives to produce. But rapid growth makes nearly everyone, including the poor, better off. Contrary to Goodin, capitalism does not leave the poor to a dire fate.

But, Goodin replies, why need we choose between growth and governmentally-imposed welfare? Surely the incentive effects of carefully chosen programs will not be great. Can we not then have the best of both worlds? Only fanatics will insist on growth to the exclusion of all else.

Schmidtz's response seems to me the best point in the book. Even a small effect on growth will rapidly assume great significance. In an earlier publication, Goodin argued that welfare programs lessen productivity only to a small extent. Schmidtz comments: "Really? Consider this: if the annual growth rate of America's gross domestic product (GDP) had been 1 percentage point lower between 1870 and 1990, America's *per capita* GDP would be less than one-third its present level, which would put it on a par with Mexico" (p. 61).

Schmidtz's point drives Goodin into a corner. He can, if he wishes, insist that any temporary inconvenience for those now on welfare outweighs the gains of everyone, including the poor, a short time later. But this strikes one as implausible: and Goodin's case does not improve when he brings up the bogey of "structural unemployment." The idea that machines drive people out of work has been with us at least since Aristotle.

A free enterprise economy will grow much more rapidly than its welfare state rival, owing to the draining effects of high taxes on incentives to produce.

Given the manifest failures of such claims historically, surely Mr. Goodin owes us an argument to show that some laborers have no services that the market values. What is his reply to the standard contention of economic theory against him? About all this he says

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not a word. Readers who do not share Goodin's distaste for theory should consult the illuminating remarks of Ludwig von Mises (*Human Action* [Auburn, Ala.: Mises Institute, 1998], pp. 136–37).

Neither argument from rights nor from economic growth, it is safe to predict, will induce Mr. Goodin to change his position in the slightest. I fear that he is a lost cause. He informs us, without the hint of a smile, that those who criticize welfare mothers for getting pregnant to increase their benefits are not "properly circumspect" over "notoriously vexed" questions of population policy. The desire to impose "punitive" measures on such women obviously finds its motive in racism. With such a true believer, nothing avails. ✦

Discovery in the Balance

The Driving Force of the Market: Essays in Austrian Economics

Israel M. Kirzner
Routledge, 2000
xii + 295 pgs.

In a masterly essay included in *The Driving Force of the Market*, Israel Kirzner asks whether Hayek can best be seen as a hedgehog, who sees one big thing, or as a fox, who sees many things. If the same question is posed about Kirzner himself, the answer admits of little doubt. The distinction that Isaiah Berlin adapted from Archilochus seems made for our author. He is a hedgehog among hedgehogs, developing throughout his work a central insight.

The insight in question can at once be explained if we turn to "Rationality,

He is a hedgehog among hedgehogs, developing throughout his work a central insight.

Entrepreneurship, and Economic 'Imperialism'," a penetrating discussion of the work of Gary Becker. Professor Kirzner finds in the analysis of the famed Chicago economist a fundamental flaw. Becker's entire apparatus assumes that equilibrium is at hand. "An examination of Becker's work in applying the economic approach to areas usually reserved to other social sciences, indeed reveals that the assumption of universally attained equilibrium is taken very seriously and quite self-consciously" (p. 266). (I

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digress to point out that Kirzner mildly upsets *my* equilibrium by placing a comma between subject and verb. I fear that he quite often thus lapses into grammatical sin.)

Here lies Becker's error and Kirzner's central insight. The market cannot accurately be characterized by the equations of equilibrium, which assume that actors, relying on perfect knowledge, always choose optimally. To make this assumption flies in the face of reality. Actors in fact operate in the midst of uncertainty, a circumstance that inevitably gives rise to errors and offers a chance to correct them.

Kirzner criticizes without mercy economists who see optimality everywhere. How can they fail to grasp that the market is a process, not a static state of equilibrium? Some Chicago economists go so far as to extend the assumption of universal optimality to governmental intervention. "The late George Stigler, pursuing this logic to its bitter end (an end many are likely to consider a *reductio ad absurdum*), argued that . . . [t]o declare a public policy to be economically 'wrong' is . . . not to assert a scientific conclusion: it is merely to engage in "preaching". The world, according to its own lights, is always in an optimal state. But all this seems, surely, abundantly perverse" (p. 261).

Kirzner criticizes without mercy economists who see optimality everywhere.

We have not yet reached the core of Kirzner's work—the center of the center, as it were. Because economic actors make errors, entrepreneurs have room to operate. An entrepreneur alertly recognizes that prices somewhere are out of line. He can, by his perception of error, "buy low and sell high," thus earning a profit. Each correct act of entrepreneurship brings production to greater accord with consumers' demands and thus moves toward equilibrium. But of course the data constantly change and equilibrium never arrives.

As our author sees matters, the entrepreneur is in essence an arbitrageur. Kirzner campaigns for his view with all the skill of a great general, but at one point he overextends himself. On the arbitrage theory, "the emphasis . . . is on the ability of the superior entrepreneur to identify, more correctly than others are able to do, where today's market undervalues future output" (p. 118). So far, so good; but now Kirzner falls into error.

It does not follow from Kirzner's arbitrage theory that the successful entrepreneur corrects a misallocation of resources, as he more than once suggests. He states, on one occasion: "The market process consists . . . in the continual correction of false prices that occurs in the course of entrepreneurial

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competition. . . . False prices are false in that they incorrectly reflect the urgency of consumer demand for the various alternative possible products that can be created with these factors. *It is this discoordination between what might be produced and what in fact is being produced, which offers alert entrepreneurs opportunities for pure gain*" (p. 153, emphasis mine).

Our author, ever the hedgehog, endeavors to extend his insights about the entrepreneur to ethics: and here I cannot think the result is entirely successful.

But if the error that the entrepreneur perceives is that future prices will exceed future costs, why need there be any present misallocation of resources? Even if all goods were produced in the exact quantities consumers now demand, estimates of future prices might still be out of line. Hence, the entrepreneur need not detect something that is now being produced in the "wrong" quantity; it is enough that he foresees an error in futures markets.

It would be folly further to do battle with so distinguished an economist in his own specialty. Prudently, then, I turn to another topic. Our author, ever the hedgehog, endeavors to extend his insights about the entrepreneur to ethics: and here I cannot think the result is entirely successful. He contends that entrepreneurs, as they profit from perceived errors, bring about an increase in the extent that people's plans are coordinated. Of course, entrepreneurs often err, but still the tendency toward coordination dominates. "For although entrepreneurs can . . . make errors, *there is no* ***tendency*** *for entrepreneurial errors to be made.* The tendency which the market generates toward greater mutual awareness, is not offset by any equal but opposite tendency in the direction of diminishing awareness" (p. 31, emphasis and grammatical sin in original). The tendency toward coordination never completes itself in equilibrium, but nevertheless is a pervasive feature of the market.

From this tendency, our author generates an ethical criterion. Plans of action are coordinated, he contends, if each actor takes account of everyone else's action. And not just what each person *in fact* does must be considered: each must bear in mind everyone else's alternative actions. As an example, "were two airplanes to collide, we would say that the actions of their respective pilots were not mutually coordinated. Each pilot failed to take into account what the other pilot was doing" (p. 136).

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We have not yet reached Kirzner's criterion. It is not, as you might have guessed, the extent to which actors in the economy have their plans in coordination. Rather, it is the extent to which a dynamic tendency exists to bring about this happy state of affairs.

Our author, with his customary precision, exactly specifies the sense in which he claims that his criterion is objective. To accept it as a goal, he readily admits, involves a judgment of value. But whether the criterion is met is a pure matter of fact. "What is needed for an objectively-based normative economics, is a criterion which . . . can be unambiguously identified by economic science" (p. 134, grammatical sin in original).

No doubt each person is usually better off if he knows what other relevant actors will do, though not always.

You might at first think that Professor Kirzner has landed himself in a quandary. Even if the extent to which the criterion is met can be objectively determined, how does this help him if *accepting* it involves a value judgment? Does he not at once fall back into subjectivity? But I fear that I have thus far been unfair to him.

With his customary sagacity, our author has anticipated our objection, as would be evident had I not truncated the quotation just given. Kirzner goes on to say that the criterion must seem "likely to be able to serve as a norm for goodness in the light of independently established, widely shared or otherwise assumed moral principles" (p. 134). Our author thinks, then, that although accepting his criterion involves a value judgment, it is one that bears its truth on its face.

And this is exactly what I question. No doubt each person is usually better off if he knows what other relevant actors will do, though not always. (Suppose, e.g., that you would not have undertaken a risky but beneficial action had you not been ignorant of someone's possible response.) It does not follow from this that everyone is better off if Kirznerian coordination prevails. Let us return to our author's favorite, the entrepreneur. He can hardly rate it an improvement if others become aware of his intention to buy low and sell high. If they do, they will block his moves and he will gain no profit.

I suspect Professor Kirzner will respond that this objection misfires. He does not claim that his criterion measures an increase in aggregate social utility. Quite the contrary, he denies that such a thing makes scientific sense. Why, then, do I judge his criterion by a standard he explicitly disclaims?

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But if the criterion is not a measure of welfare, what is its purpose? Why is the mere spread of knowledge taken to be a good in itself? Kirzner wants a criterion that relies on commonly accepted ethical principles, but he does not come close to providing that. One can easily think of cases such as his pilots example in which an increase in knowledge is noncontroversially good. I venture to suggest, though, that these examples will be ones where knowledge increases welfare. Absent this, the criterion rests on nothing.

Why is it taken as obvious that the more people can achieve the goals they anticipate, the better?

Our author of course dissents. He claims, if I have understood him, that anyone "morally concerned that members of society undertake their actions in a way that does not inevitably spell disappointment and/or regret (such as must ultimately ensue from patterns of action which incorrectly anticipate and depend upon the actions of others in the system)" (p. 145) should endorse the coordination criterion.

By no means has he shown this. Why is it taken as obvious that the more people can achieve the goals they anticipate, the better? Perhaps in other circumstances, more people will fail to achieve their plans, but at the same time will face alternatives that they judge more desirable than those they would face under coordination. You might well prefer an even chance of being hanged to the certainty of execution, even though you can much more readily anticipate the actions of others in the latter situation.

However much one may disagree with Professor Kirzner on various points, one cannot but admire the painstaking skill in conceptual analysis he displays in this outstanding book. ✦

Overvaluing Uncertainty

Capital in Disequilibrium: The Role of Capital in a Changing World

Peter Lewin
Routledge, 1999
ix + 255 pgs.

Peter Lewin here undertakes a difficult task and carries off his mission with notable success. He studied with the late Ludwig Lachmann, by whose thought he has been greatly influenced. But to carry on the work of his mentor, as Dr. Lewin in this book endeavors to do, *prima facie* raises a difficulty.

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Lachmann famously argued that uncertainty pervades economic action. Action aims to achieve a result in the future, and future knowledge is by definition now inaccessible. Our author succinctly states Lachmann's central theme: "He [Lachmann] considers it axiomatic that the passage of time cannot occur without the arrival of new knowledge. Each moment in time is unique and time is irreversible. 'As soon as we permit time to elapse, we must permit knowledge to change.'. . . I have referred to this as Lachmann's axiom" (p. 24).

Ludwig Lachmann famously argued that uncertainty pervades economic action.

Here the difficulty arises. If economic actors always act in the face of radical uncertainty, can the theorist say anything useful about action at all? Is he not reduced to playing endless variations on the theme of uncertainty? Lachmann's critics have not hesitated to speak in this connection of theoretical nihilism. Is economics in the style of Lachmann possible?

Dr. Lewin decisively meets this challenge. He convincingly shows that stress on uncertainty, far from dissolving economics, often promotes theoretical insights. To support his contention, he adduces a wide variety of topics in capital theory, including Hicks's view of capital and time and Becker's concept of human capital. One example must here suffice to show the power of our author's approach.

He argues that in the battle of the Cambridges, both sides relied on a false premise. The celebrated controversy pitted Joan Robinson and her acolytes at Cambridge University against Robert Solow and Paul Samuelson of MIT (located in Cambridge, Massachusetts). Mrs. Robinson devised ingenious counterexamples to the capital and growth theory that Solow and Samuelson had set out. This theory took capital to be part of a "production function"; like land and labor, it earns a fixed rate of return. "Because capital, like any other input, is subject to diminishing returns, it will be accumulated up to the point where the value of its marginal product just repays the opportunity cost of its employment" (p. 81).

The critics found this growth model beset with indeterminacy. How can one assume a fixed rate of return to capital, when the amount of capital cannot be measured apart from prices and the distribution of income? "It is not possible to separate the *value* and the *quantity* of capital" (p. 81). The thrusts of the Cambridge Neo-Ricardians forced Solow and Samuelson to execute a strategic retreat. They admitted some of the enemy's points but

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claimed that these were of dubious relevance to the actual world.

Dr. Lewin, putting to good effect what he has learned from Lachmann, indicts both groups for a common failing. Both assume equilibrium conditions; but this is precisely to ignore Lachmann's foremost lesson. Because economic actors face radical uncertainty, equilibrium models distort reality. "Neither side in the debate raises any questions relating to the availability or use of knowledge or expectations regarding production techniques. . . . Neither side wondered about the relevance of their framework to the market process as we know it" (pp. 82–83).

Our author's stress on time and uncertainty leads him to adopt the pure time preference theory of interest, and he brings to light a convincing argument from Lachmann against the possibility of negative rates of time preference (p. 106). But in one respect his laudable desire to convey the insights of his mentor betrays him. So anxious is he always to bring uncertainty to the fore that he advances fallacious arguments against Mises and Rothbard for daring to derive time preference as a pure category of action.

He charges Mises with logical contradiction: "he assumed the absence of uncertainty in order to 'prove' the necessity of time preference as an implication of action, where action in a world without uncertainty is, by his own definition, logically impossible" (p. 104). But action under conditions of certainty *is* possible.

The argument to the contrary proceeds in this way: if you knew with certainty that something would happen, action would be pointless. Why attempt to bring about the inevitable? But suppose that you know both that an event will occur if and only if you act and that you will act. I know that I shall take in the mail if and only if I go to the mailbox and I know that I shall go there. Here action and certainty are quite compatible, Dr. Lewin to the contrary notwithstanding.

Here action and certainty are quite compatible, Dr. Lewin to the contrary notwithstanding.

No more convincing is another argument to show that time preference depends on uncertainty. He asks us to consider a familiar thought experiment: "The teacher takes out a ten-dollar bill and asks the class which they [sic] would prefer: (1) the ten dollars right now or (2) the same ten dollars this time next week. He adds that the students may not earn any interest on the ten dollars. Of course, everyone opts for (1)" (p. 105).

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The experiment aims to bring home to the student the reality of time preference, but Lewin maintains that it works only if uncertainty is assumed. "[I]f we assume that (2) and (1) are equally and completely certain, then *a priori* it does not seem to be possible to say that one will be preferred to the other. The knee-jerk preference for (1) over (2) seems to be crucially bound up with the fact that the students automatically realize that the passage of time brings with it unexpected events" (p. 105).

Our author here falls into a fallacy that at times ensnared Lachmann.

Dr. Lewin has not asked himself a basic question: why does the subject in the experiment want money? If the money is not to be spent but simply held, then given complete certainty it does not matter whether the teacher or student holds the money. All that is on offer is the certainty, either way, that the student will have available to do with as he wishes ten dollars next week. No real difference exists between the two options. If, however, the student is allowed to spend the money as soon as he gets it, will he not prefer to have it now rather than next week? Otherwise, he must wait to satisfy his desires. Uncertainty has nothing to do with the case.

Our author here falls into a fallacy that at times ensnared Lachmann. Rightly seeing how important uncertainty is for economics, Lachmann and his followers press their point too far. Uncertainty lies everywhere around them; and they often concoct bad philosophical arguments to elevate their favored concept into a metaphysical necessity. Why, e.g., should one accept Lachmann's axiom? Granted that the future does not now exist, how is it supposed to follow that we cannot now know what will happen? Is the argument supposed to be that we cannot know what people will freely choose to do, since their choices are by hypothesis undetermined by law? It is not apparent, though, that one cannot know when someone will freely choose. I know that Dr. Lewin will not endorse minimum wage laws tomorrow, but he is free to do so.

Lachmann and his school merit praise for their concern with the philosophical foundations of economics; but I venture to suggest that they do not always grasp the difficulty of the subject. With becoming modesty, Dr. Lewin tells us that he makes "no claims to expertise in the field of epistemology" (p. 221, n. 4). Perhaps he should have then steered clear of controversial pronouncements about it. Fortunately, this flaw does not much mar his excellent book. ✦

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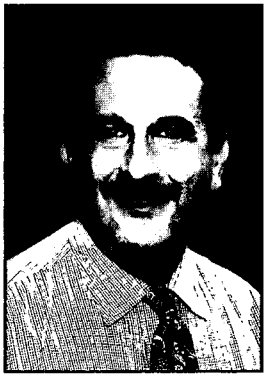

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